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I. LAND AND PEOPLE

A. Geography and climate

Geography

1. The Republic of Turkey, situated at the crossroads of the Asian, European and African continents, is bordered by Georgia, Armenia, Nakhichevan (Azerbaijan) and Iran to the east, Bulgaria and Greece to the west and Syria and Iraq to the south. Turkey's coastlines encompass her on three sides with the Mediterranean Sea to the south, the Black Sea to the north and the Aegean Sea to the west.

2. The surface area of the Republic of Turkey is 814,578 square kilometres. Three per cent of this area is located in Thrace on the European continent. The remaining 97 per cent, which is located on the Asian continent, is called Anatolia. Turkey, which resembles a rectangle, has a width of approximately 550 km and a length of about 1,500 km. The length of the coastline is 8,333 km and the length of the land borders is 2,875 km.

3. Turkey is a generally high country and the surface morphologies are quite varied. The mountains in Turkey cover an extensive area, but in contrast to this, there are also many areas where there are various plains, plateaus and depressions. This characteristic varies the climate on the one hand, and influences settlements and economic life on the other. Turkey is divided into seven geographical regions by taking into consideration factors such as climate, natural plant cover and distribution of types of agriculture, namely the Mediterranean, Aegean, Marmara, Black Sea, Central Anatolia, Eastern Anatolia and South-eastern Anatolia regions.

4. The main mountain ranges in Turkey, which is a mountainous country, generally extend parallel to the coasts to the north and to the south. The mountains to the north are the North Anatolia Mountains and to the south the Taurus Mountains. These mountain ranges are separated from each other by large plains in the central sections of Anatolia. The mountain ranges are concentrated in the eastern sections of Turkey and form high peaks. The elevation decreases in the western section. There are few mountain ranges in the Aegean and the Marmara regions. These regions are mostly depressions. There are also extensive plains in South-eastern Anatolia as in the central sections of Turkey, which remain outside the extensions of the Taurus Mountains.

5. There are many rivers and streams in Turkey. A large portion of these rivers are used for energy production. Most of these rivers empty into the seas which surround Turkey, while some of them reach other seas after leaving Turkey's borders. The Euphrates and Tigris rivers, the main rivers in Eastern and South-eastern Anatolia, flow into the Persian Gulf; the Yeşilırmak, Kızılırmak and Sakarya rivers in Central Anatolia flow into the Black Sea; the Susurluk, Biga and Gönen Streams in the west flow into the Marmara Sea; and the Gediz, Büyük and Küçük Menderes rivers flow into the Aegean Sea. The main rivers that flow into the Mediterranean Sea are the Seyhan, Ceyhan and Göksu rivers, and the Dalaman and Esen streams. The longest river within the borders of Turkey is the Kızılırmak (1,355 km).

6. The total area of Turkey's lakes is around 9,200 square kilometres. Eastern Anatolia is the most abundant region from the aspect of the number of lakes. Lake Van (3,713 square kilometres) is Turkey's largest lake. The freshwater lakes are used for irrigation and many lakes for fishing. Fairly large reservoirs have been made in the past 30 years as a result of the widespread construction of dams.

7. Turkey is surrounded by seas on three sides and connected to the oceans with the seaways. The Marmara Sea and the Turkish Straits are very important water passages which open the Black Sea to the outside world. The Marmara Sea, which is located completely within the national borders, opens to the Black Sea via the Istanbul Strait and to the Aegean Sea and the Mediterranean Sea via the Çanakkale Strait. The Aegean and Western Mediterranean shores in Turkey are indented and numerous bays are located in these places. This attribute of the coasts decreases towards the east of the Mediterranean.

Climate

8. In spite of Turkey being located in a moderate climate belt, due to the fact that the mountains are parallel to the coasts and the diversification of the surface morphology, differences in climate are observed among the regions. The coastal regions have a moderate maritime climate while the internal regions surrounded by mountains have a continental climate. The Mediterranean region, which is under the influence of the Mediterranean climate, has hot and arid summers and mild and rainy winters. The Mediterranean climate also manifests itself in the Aegean region and in the south of the Marmara region. The Black Sea region is dominated by a more moderate and rainy maritime climate. In the interior regions, the summers are hot and slightly rainy and a steppe climate is observed in the winters which are cold and snowy. In the Eastern Anatolia region, the summers are cool and the winters are very cold and snowy. In the South-eastern Anatolia region, while the summers are hot and arid, the winters are not very cold.

B. Population

9. Demographic data (for 2000):

Total population	65,293,000
Percentage of urban population	67.6
Percentage of rural population	32.4
Population density	85 inhabitants per square kilometre
Population growth rate	14.8 per thousand inhabitants
Birth rate	21.8 per thousand inhabitants
Mortality rate	6.7 per thousand inhabitants
Global fertility rate	2.5 children per woman
Infant mortality rate	35.3 per thousand live births
Maternal mortality rate	55 per 100,000 live births
Life expectancy	66.9 years for men 71.5 years for women (69.1 years overall)

Proportion of population under 15 years of age	29.9 per cent
Proportion of population over 65 years of age	5.6 per cent
Rate of literacy	94.2 per cent for men 77.4 per cent for women (85.8 per cent overall)

10. Economic indicators (for 2000):

Gross National Product	$198.6 billion
Per capita GNP	$2,986
Annual rate of inflation	39 per cent
Rate of unemployment	6.6 per cent

II. GENERAL POLITICAL STRUCTURE

A. History

11. Throughout history, the Turks have established numerous States in different geographical areas on the continents of Asia and Europe. Over the centuries, the Turks founded a number of powerful States on the plains of Central Asia before migrating westwards. The Seljuk Turks, who settled in the Anatolian peninsula after the Battle of Malazgirt in 1071, reigned over the area for approximately 200 years. The Ottoman Empire, founded at the beginning of the fourteenth century, controlled vast territories in Europe, Asia and Africa, and was a major power for more than six centuries. Following the collapse of the Ottoman Empire, the Republic of Turkey was founded on 29 October 1923. With the successful reforms of Mustafa Kemal Atatürk, the founder of the Republic, Turkey has emerged as a modern State. Since its foundation, the Turkish Republic has always pursued a policy of peace. Maintaining friendly and mutually beneficial relations with all countries, promoting regional and international cooperation schemes, seeking to resolve conflicts through peaceful means and contributing to regional and international peace, stability and prosperity constitute the basic principles guiding Turkish foreign policy.

12. Turkey is a member of the North Atlantic Treaty Organization, the Council of Europe, the Organization for Economic Cooperation and Development, the Organization for Security and Cooperation in Europe, the Organization of the Islamic Conference, the Economic Cooperation Organization and the Black Sea Economic Cooperation Organization all at the same time. It is also an associate member with a view to full membership of the European Union.

B. The unitary structure of the State

13. The Republic of Turkey is a unitary State divided administratively into 81 provinces. The unitary structure of the State of the Republic of Turkey dates from the National Pact of 1920. The National Pact, which was adopted during the War of Independence, has determined the borders of the country. A great struggle was made to free the territory within these boundaries from foreign occupation and to establish a sovereign State on this territory.

This struggle determined the unitary structure of the State. Anatolia, which has hosted many civilizations throughout history, is a mosaic composed of various cultural diversities. The Constitution, by protecting this cultural mosaic, enshrines the indivisible entity of the State with its territory and nation. Its historical, social, economic, geographic and cultural factors have determined the form of the State.

14. The unitary State is organized in the form of the central administration and local administrations. The central administration, excluding the legislative and the judiciary organs, is composed of the Prime Ministry and the Ministries. Furthermore, there are organizations connected or related to the Ministries.

15. The Republic of Turkey has adopted a unitary State model with local administrations, not a model of a centralized, single structured unitary State. The administrative services of the country are carried out by individuals elected by the people in the different regions, besides the central administration. Local administration organizations (provincial special administrations, municipalities and villages) have their own public legal personalities, duties and authorities and assets separate from the State. The local administration organizations are governed with the laws put into effect by the central administration and continue their activities in the framework of these laws. A supervisory application called "administrative guardianship" has been adopted so that political party interests do not dominate the activities of the local administration organizations and they do not engage in procedures which are against equality. When the central administration uses its administrative guardianship, it supervises conformity to law, and sometimes its appropriateness as well. However, administrative guardianship cannot take the place of the local administration and perform transactions. For example, decisions made by the provincial general assembly are subject to the approval of the governor.

16. The Constitution envisions local administrations in two forms, as local and functional. The local administrations are the special provincial administrations, municipalities and villages. These are public legal personalities elected by the people as the general decision organs and to meet the local common needs. The functional administrations are also called "local service administrations" or "autonomous administrations". These are formed according to the attribute of the service and kept outside the general administration. They appeared as a requirement of contemporary society and have developed greatly in a short period of time. The professional organizations which have the characteristic of public organizations can be given as an example of these.

C. The Constitution

17. Activities for preparing a constitution in Turkey started in the second half of the nineteenth century, and the first Constitution was adopted in 1876 during the final period of the Ottoman Empire. The Constitution of 1921 was the second constitution promulgated, during the War of Independence, that included the rules necessitated by the conditions and requirements of the war. Three constitutions have been promulgated during the Republic Period. The first constitution of the Republic of Turkey was adopted in 1924, the second constitution in 1961 and the third constitution, which is in effect today, was adopted by a referendum in 1982.

18. The Republic of Turkey accepts the separation of powers, as do all contemporary democracies. In the preamble of the Constitution, which determines the foundations on which the State is based, it is emphasized that the separation of powers does not have the meaning of an order of superiority among the State organs, but it consists of the use of definite State authorities and functions and the cooperation among them.

19. According to the Constitution, unconditional and unrestricted sovereignty is vested in the nation. The people exercise their sovereignty directly through elections, and indirectly through the authorized organs within the framework of the principles laid down in the Constitution. The legislative, executive and judiciary are the organs which use sovereignty. The legislative power is vested in the Turkish Grand National Assembly (TGNA) and cannot be delegated. Executive power and functions are exercised and carried out by the President of the Republic and the Council of Ministers, in conformity with the Constitution and laws. Judicial power is exercised by independent courts on behalf of the Turkish nation.

20. The principle which brings the separation of powers into existence is the principle of a State based on the rule of law. This principle provides for the supremacy of law in the existence of the State and the society. The powers of the legislative and executive organs are limited and balanced with the judiciary as the result of the principle of the supremacy of law. All legislative and executive procedures and activities are subject to judicial control. Thus, democracy is protected in the State administration. The Constitution is equipped with the rules which safeguard this system. The provisions of the Constitution are basic legal regulations which bind the legislative, executive and judiciary organs, the Government and all real and legal persons. These provisions constitute the source of legality for governmental procedures.

21. The Constitution stipulates that the form of the State is a Republic and unconditional, unrestricted sovereignty belongs to the nation. The Republic of Turkey is a democratic, secular and social State based on the rule of law, respectful of human rights and committed to the nationalism of Atatürk.

22. The fact that unconditional and unrestricted sovereignty belongs to the nation reflects the democratic State model. The democracy adopted by the Constitution is representative democracy. The people elect their representatives with their votes, and thus they indirectly use their sovereign rights. Beyond this, sovereignty is used by the authorized organs in accordance with the principle of the separation of powers and the provisions of the Constitution. No one or organ can use the State authority that does not have its source from the Constitution. The referendum, which is the direct use of sovereignty, is envisaged only for amendments to the Constitution. Authorized organs for using sovereignty cannot be outside of democracy and the legal system determined by the requirements of democracy.

23. The State based on the rule of law foreseen in the Constitution is founded on the principle of the protection of fundamental rights and freedoms and the separation of powers. The supremacy of law is the foundation. Legislative procedures are subject to the control of the Constitutional Court and administrative procedures and activities are subject to the control of the Administrative Courts.

24. According to the principle of secularism enshrined in the Constitution, no one can make the basic social, economic, political and legal system of the State depend on religious rules, even partially; and no one can abuse religion, religious beliefs and objects which are considered to be sacred by religion in any manner whatsoever, with the objective of obtaining political or personal advantage or influence.

25. Political parties are indispensable components of democratic life. However, the Constitution guarantees the independence of the State, the inseparable unity of the country and nation, national sovereignty, advocacy of the freedom of democracy, secularism, human rights and freedoms and the principle of the State based on the rule of law.

D. The executive

26. The executive organ is composed of the President and the Council of Ministers. Some administrative units are also included in the section of the Constitution regarding the executive. Accordingly, the institutions mentioned in the Constitution by their names or organizational structure have the status of "constitutional institutions". The higher education institutions, the public professional institutions, the Turkish Radio and Television Corporation, the Atatürk Cultural, Linguistic and Historical Supreme Council and the Directorate of Religious Affairs are among these bodies.

The President

27. The President is the Head of State. He/she represents the Republic of Turkey and the unity of the Turkish Nation in this capacity. Those who are at least 40 years of age, deputies who have received higher education or Turkish citizens who are qualified to be elected as a deputy are elected by the TGNA by secret ballot and with a two-thirds majority of the total number of the Parliament members. The term of office is seven years. The person who is elected President severs his/her connection with his/her party, if any, and his/her TGNA membership ends. The President cannot be elected for a second term. The President, upon assuming his/her duties, takes the oath which is stated in the Constitution.

28. The President ensures the implementation of the Constitution and the organized and coordinated work of State bodies. He/she has functions and powers related to the legislative, executive and judicial fields. The President's functions in the legislative field are to summon the TGNA to meet when necessary; to promulgate laws and when deemed necessary to return laws to the Parliament to be reconsidered; to hold a referendum for Constitutional amendments when he/she considers it necessary; to appeal to the Constitutional Court claiming that there are violations of the Constitution related to laws, decrees having the force of law and the Internal Regulations of the TGNA; and to call new elections for the TGNA when conditions necessitate them. His/her functions in the executive field are quite comprehensive. He/she appoints the Prime Minister and the Ministers upon the proposal of the Prime Minister; accredits representatives of the Turkish State to foreign countries and receives representatives of foreign States; and ratifies and promulgates international agreements. Furthermore, he/she approves decrees as signatory; commutes or pardons the sentences of certain convicts if the conditions are

met; appoints the members of the State Supervisory Council, the Higher Education Council and university rectors. The President's functions related to the judiciary are limited to the appointment of members of the higher courts.

29. The Constitution includes two constitutional institutions in the section related to the Presidency: the Presidential General Secretariat and the State Supervisory Council. The State Supervisory Council performs its duties with a view to developing the regular and efficient functioning of the administration and its conformity to laws.

The Council of Ministers

30. The Council of Ministers is composed of the Prime Minister and the ministers. The Prime Minister is appointed by the President from among the members of the TGNA. Ministers are assigned by the Prime Minister from among the deputies or from among those eligible for election as deputies and they are appointed by the President. Ministers can be dismissed from their duties by the President upon the proposal of the Prime Minister, when deemed necessary.

31. When the Council of Ministers is formed, the Government's programme is read in the TGNA and a vote of confidence is taken. The Government assumes its duties when it obtains a vote of confidence. Members of the Council of Ministers are jointly responsible for the implementation of general policies. The formation, abolition, functions, powers and organization of the ministries are regulated by law.

32. The Constitution also includes national defence in the section related to the Council of Ministers. The authorities and functions of organizations arranged in this section are the Office of the Commander in Chief, the Office of the Chief of the General Staff and the National Security Council.

33. The National Security Council, presided over by the President, is composed of the Prime Minister, the Chief of the General Staff, the Minister of National Defence, the Minister of the Interior, the Minister of Foreign Affairs, the Commanders General of the Army, Navy and the Air Force and the Commander General of the Gendarmerie. It makes decisions related to the formulation, establishment and implementation of national security policy and informs the Council of Ministers about these decisions. The Council of Ministers gives priority consideration to the decisions of the National Security Council concerning the measures that it deems necessary for the preservation of the existence and independence of the State, the integrity and indivisibility of the country and the peace and security of society.

The administration

34. The administration is an entirety with its structure and functions and is regulated by law. The organization and functions of the administration are based on the principle of centralization and local administration. The central administration in Turkey is structured in the form of provinces, districts, sub-districts and villages. The local administrations are the special provincial administrations, the towns and the villages. Local administrations are public legal persons established to meet the common local needs of the inhabitants of provinces, towns and villages, whose decision-making organs are elected by the electorate.

E. The legislature

35. The Turkish Grand National Assembly is composed of 550 deputies. Parliamentary elections are held once every five years. Just as the Parliament can decide to hold new elections before this period is completed, the President, based on his constitutional authority, may also decide to hold new elections. The Parliament can decide to defer elections for one year in case of war. In case a vacancy occurs in the TGNA membership, an intermediary election is held once during every election term.

36. The elections are held under the general management and supervision of the judicial organs, and the method of election is determined by law. The law has to observe the principles of "justice in representation and stability in the administration". These principles, that were first determined with a decision by the Constitutional Court, were included in the Constitution in the amendments made on 25 July 1995.

37. Deputies represent the entire nation and when they assume office, they take an oath, the text of which is included in the Constitution. Deputies have immunities due to their votes and their opinions which they verbally express. The General Assembly of the Parliament must lift the immunity of deputies in order for them to be interrogated or have legal investigations opened, with the exception of being caught in the act of committing any crime. Punishment can be applied after their deputyships are completed.

38. The Turkish Grand National Assembly carries out its activities in accordance with its internal regulations. It is foreseen in the Constitution and the Internal Regulations that the Parliament should work in the form of commissions. The Commissions are formed according to various specialized areas. The Commissions are entrusted with the preliminary drafting of legislation, which must be approved by the General Assembly.

39. In addition to its special functions and powers prescribed in the Constitution, the TGNA enacts, amends and repeals laws; supervises the Council of Ministers and the ministers; gives authority to the Council of Ministers to issue decrees having the force of law and adopts the budget and final account draft laws. Furthermore, making decisions regarding the printing or minting of currency and declaration of war, martial law or emergency rule; ratifying international agreements signed by Turkey; making decisions for declaring general or special amnesties and making decisions for carrying out death penalty sentences given and finalized by the courts are also among the functions and powers of the TGNA.

F. The judiciary

40. Judicial power in Turkey is exercised by independent courts and supreme judiciary organs on behalf of the Turkish nation. The section of the Constitution on the judiciary is based on the absolute independence of courts and judges.

41. Court hearings are open to the public, excluding closed sessions which are decided in special situations. In crime and punishment, the principle of legality, the fact that the responsibility for the offence is individual and the presumption of innocence are valid.

42. Everyone has the right to claim or defend his/her rights as the plaintiff or the defendant in the courts. This is a right determined in the Constitution and is an important element of the principle of the State based on the rule of law. No one can be taken in front of an authority other than the court to which he/she is legally bound.

43. The right to judge has been given only to the independent judges. Judges and public prosecutors carry out their duties in line with the principles of independence and impartiality. Judges and public prosecutors cannot be forced to retire until they are 65 years old, if they do not request it themselves, cannot be dismissed and cannot be deprived of their salaries, allocations and other employee rights, even when a court or its permanent staff position is abolished.

44. The principles regarding the independence of the courts and security of tenure of judges and public prosecutors are defined in the third part of the Constitution, entitled "Judicial Power" (arts. 138-160). Accordingly, no organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, or send them circulars, make recommendations or suggestions. Also, no question can be asked, debates held or statements made in the Legislative Assembly relating to the exercise of judicial power concerning a case under trial. Legislative and executive organs and the administration are obliged to comply with court decisions.

45. The provisions of the Constitution are fundamental legal rules binding legislative, executive and judicial organs and administrative authorities and all other institutions and individuals. Laws cannot be in conflict with the Constitution. In order to substantiate this principle, a Constitutional Court was established which took a primus inter pares position among the higher courts of the judiciary.

46. The Constitutional Court examines the constitutionality, in respect of both form and substance, of laws, decrees having force of law and the rules of procedure of the Turkish Grand National Assembly. The President of the Republic, the parliamentary groups of the party in power and of the main opposition party and a minimum of one fifth of the total number of members of the Grand National Assembly (110 members) are entitled to apply for annulment action to the Constitutional Court, based on the assertion of the unconstitutionality of laws in form and in substance, of decrees having force of law, of rules of procedure of the Grand National Assembly or of specific articles or provisions thereof. Furthermore, if a court which is trying a case finds that the law or the decree having force of law which is to be applied is unconstitutional, or if it is convinced of the seriousness of a claim of unconstitutionality submitted by one of the parties, it can apply to the Constitutional Court and postpone the consideration of the case until the Constitutional Court decides on this issue. Decisions of the Constitutional Court are final. These decisions cannot be amended in any manner and their application cannot be delayed.

47. The other functions of the Constitutional Court are as follows:

- Judging, in its capacity as the Supreme Court, the President, members of the Council of Ministers, members of the higher courts, the chairman and members of the Supreme Council of Judges and Public Prosecutors and of the Supreme Court of Public Accounts for crimes related to their duties;

- Examining cases advocating the closure of political parties and the requests of the Chief Prosecutor of the Supreme Court of Appeals to warn the political parties;

- Auditing the finances of political parties; and

- Reviewing decisions of the TGNA to revoke the immunities of deputies or to dismiss members of parliament.

48. The Constitutional Court is composed of 11 regular and 4 substitute members. Decisions are reached by convening the 11 members. The members are chosen according to special procedures and quotas from among the members of the Supreme Court of Appeals, the Council of State, the Supreme Military Court of Appeals, the Supreme Military Administrative Court and the Supreme Court of Public Accounts, as well as high-level administrators, academicians and lawyers.

49. Ordinary, administrative and military justice are organized separately in the Turkish legal system. In the light of article 142 of the Constitution, the organization, functions and jurisdictions of the courts and their functioning and trial procedures are regulated by law. Accordingly, in the Turkish legal system:

(a) The courts of justice consist of:

(i) General first instance courts:

- criminal courts, namely magistrate courts, general criminal courts and heavy penal (felony) courts;

- civil courts, namely civil courts of peace, general civil courts and commercial courts;

(ii) Specialized first instance courts:

- State security courts;

- juvenile courts;

- land registration courts;

- labour courts;

- intellectual property courts;

(iii) The Supreme Court of Appeals (also referred to as the Court of Cassation) which is the last instance for reviewing decisions and judgements given by courts of justice (art. 154 of the Constitution).

(b) The administrative court system is composed of:

(i) administrative courts;

(ii) tax courts;

(iii) regional administrative courts;

(iv) The Council of State which is the last instance for reviewing decisions and judgements given by administrative courts (art. 155 of the Constitution).

(c) Military justice is exercised by military courts and military disciplinary courts. These courts have jurisdiction to try military personnel for military offences, for offences committed by them against other military personnel or in military places, or for offences connected with military service and duties. Military courts also have jurisdiction to try non-military persons for military offences specified in the special law, and for offences committed while performing their duties specified by law, or against military personnel in military places specified by law (art.145 of the Constitution). The Supreme Military Court of Appeals is the last instance for reviewing decisions and judgements given by military courts (art. 157 of the Constitution).

III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

A. Protection of fundamental rights in the Constitution

50. In the Preamble of the Constitution, it is stated that every Turkish citizen has the right to exercise the fundamental rights and freedoms set forth in the Constitution according to the requirements of equality and social justice, in order to lead a dignified life in the national culture, civilization and legal system; as well as the right and authority to develop one's material and spiritual being towards this end.

51. The principle of respect for human rights is mentioned in Article 2 of the Constitution as one of the fundamental characteristics of the Republic of Turkey, which is a democratic, secular and social State governed by the rule of law. Article 5 stipulates that one of the fundamental duties of the State is to strive for the removal of political, social and economic obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social State governed by the rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence.

52. Article 10, which bears the title "Equality before the law", provides that all individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. The said article also stipulates that no privilege shall be granted to any individual, family, group and class and that State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

53. Part two of the Constitution covers fundamental rights and duties. The Constitution includes rules that are the result of perceptions of both natural law and contemporary law. In this respect, article 12 provides that everyone possesses inherent fundamental rights and freedoms which are inviolable and inalienable. This article also states that the fundamental rights and freedoms also include the duties and responsibilities of the individual towards society, his family and other individuals.

54. The rights and duties of the individual are outlined in chapter two of part two (arts. 17-40) of the Constitution, which has the same heading.

55. In the context of fundamental rights, the individual's right to life and to protect and develop his material and spiritual entity is recognized in article 17. The physical integrity of the individual cannot be violated, except under medical necessity and in cases prescribed by law; he cannot be subjected to scientific or medical experiments without his consent. No one can be subjected to torture or ill treatment, or to penalties or treatment incompatible with human dignity.

56. Forced labour is prohibited; no one can be required to perform forced labour. Unpaid compulsory work is prohibited (art. 18). Article 19 of the Constitution, entitled "Personal Liberty and Security", emphasizes that everyone has the right to liberty and security of person. This article clearly defines the conditions in which individuals against whom there are strong indications of having committed an offence can be arrested by decision of a judge, and provides for the following:

(a) Notification to individuals arrested or detained of the grounds for their arrest or detention and the charges against them;

(b) Notification of the situation of the persons arrested or detained to their next of kin, except in cases where necessities pertaining to the risks of revealing the scope and subject of the investigation compel otherwise;

(c) The right of detained or arrested persons to request to be tried within a reasonable time or to be released during investigation or prosecution;

(d) The right of persons deprived of their liberty to apply to the appropriate judicial authority for speedy conclusion of proceedings regarding their situation and for their release if the restriction placed upon them is not lawful.

57. In addition to the above-mentioned rights and freedoms, the following are also regulated and guaranteed in the Constitution: The privacy of individual life (art. 20); the inviolability of the home (art. 21); the freedom of communication (art. 22); the freedom of residence and travel (art. 23); the freedom of religion and conscience (art. 24); the freedom of thought and opinion (art. 25); the freedom of expression and dissemination of thought (art. 26); the freedom of science and arts (art. 27); the freedom of the press (art. 28); the freedom of association (art. 33); the right to hold meetings and demonstration marches (art. 34) and the right of property (art. 35).

58. The principles relating to offences and penalties are formulated in article 38 of the Constitution. According to this article:

(a) Penalties, and security measures in lieu of penalties, shall be prescribed only by law;

(b) No one shall be held guilty until proven guilty in a court of law;

(c) No one shall be compelled to make a statement that would incriminate himself or his legal next of kin, or to present such incriminating evidence;

(d) Criminal responsibility shall be personal; and

(e) The administration shall not impose any sanction resulting in restriction of personal liberty.

B. Remedies guaranteeing the exercise of fundamental rights

59. A basic tenet of the Turkish legal system is that the State is directly responsible for excessive deeds or offences committed by public officials. Consequently, requests for compensation for damages incurred from such acts are directed to the State.

60. In this respect, article 40 of the Constitution reads as follows:

> Everyone whose Constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities. Damages incurred by any person through unlawful treatment by holders of public office shall be compensated for by the State. The State reserves the right of recourse to the official responsible.

61. Article 125 of the Constitution, entitled "Recourse to judicial review", stipulates that recourse to judicial review shall be available against all actions and acts of the administration. This article also states that the administration is liable to compensate for damages resulting from its actions and acts.

62. Article 129 of the Constitution provides that actions for damages arising from faults committed by civil servants and other public employees in the exercise of their duties shall be brought against the administration.

63. Article 13 of Law No. 657 on Civil Servants stipulates that in case a loss occurs because of an unlawful act of a public official, the State shall be directly responsible and a case for compensation shall be opened in an administrative court. Article 467 of the Turkish Penal Code enables persons who have been subjected to ill-treatment causing losses and damage to file lawsuits for indemnity.

64. In the light of the above-mentioned Constitutional and legal provisions, Law No. 466 on Indemnifying People who are Unlawfully Arrested or Detained was adopted on 7 May 1964. According to this law, the following persons are entitled to receive compensation from the State:

(a) Those who have been unlawfully detained or arrested or whose detention period has been unlawfully prolonged;

(b) Those who have not been immediately informed of the grounds for their arrest or detention and the charges against them;

(c) Those who have not been brought before a judge after being arrested or detained within the time-limit laid down by statute for that purpose;

(d) Those who have been deprived of their liberty without a court order after the statutory time-limit for being brought before a judge has expired;

(e) Those whose next of kin have not been immediately informed of their arrest or detention;

(f) Those who, after being arrested or detained in accordance with the law, are not subsequently committed for trial, or are acquitted or discharged after standing trial;

(g) Those who have been sentenced to a period of imprisonment shorter than the period for which they were detained or have been ordered to pay a pecuniary penalty only.

65. Article 2 of Law No. 466 stipulates that any person who has sustained damage for the reasons set out in article 1 may lodge a claim for damages with the Heavy Penal (Felony) Court having jurisdiction in respect of his place of residence within three months of the date on which the decision concerning the allegations which form the basis of his claim becomes final.

66. In accordance with article 74 of the Constitution, entitled "Right of petition", Turkish citizens have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to requests and complaints concerning themselves or the public. The said article also stipulates that the result of the application shall be made known to the petitioner in writing.

67. The system on how the right of petition is used is determined in Law No. 3071 of 1 January 1984, entitled "The Use of the Right of Petition". According to this law, the result of the process initiated upon a request or complaint of a Turkish citizen concerning himself or the public shall be made known to him in no later than two months (art. 7). The law also regulates the right to make a petition to the Grand National Assembly.

C. State bodies with jurisdiction in human rights

68. The domestic institutional framework in Turkey with respect to the protection and promotion of human rights is being progressively strengthened.

69. The Human Rights Inquiry Commission of the Turkish Grand National Assembly was established by Law No: 3686 on 5 December 1990 in order to protect and promote human rights in Turkey in accordance with contemporary universal values. Among the various tasks assigned to the Commission by Law No. 3686, the following should be emphasized;

(a) To follow developments related to human rights in international forums;

(b) To determine the changes which have to be made in order to ensure the conformity of the Constitution and national legislation with the international conventions on human rights to which Turkey is a party and propose legislative amendments to this effect;

(c) To submit, upon request or on its own initiative, opinions and proposals concerning topics on the agenda of other specialized Commissions of the Turkish Grand National Assembly which fall within its area of competence;

(d) To examine the extent to which human rights practices in Turkey comply with the requirements of the Constitution, national legislation and international conventions to which Turkey is a party and, to that end, to carry out research and propose improvements and remedies;

(e) To examine applications relating to alleged violations of human rights and to forward these to the relevant authorities when it deems necessary;

(f) To examine, where necessary, violations of human rights occurring in other countries and to bring these violations to the attention of the parliamentarians of the country concerned, either directly or through existing inter-parliamentary forums.

70. The Commission consists of 25 members. The chairman and members of the Commission are elected by the TGNA from among its members. Political party groups and independents are represented in the Commission according to the ratio of their seats - with the exception of vacant seats - to the total number of seats in Parliament. Two elections are held during one legislative period to determine the members of the Commission. The duration of assignment for those elected during the first round is two years, and the duration of assignment for those elected during the second round is three years. The expenses of the Commission are met from the general budget of the TGNA.

71. The Human Rights Inquiry Commission possesses extensive powers of investigation. In the performance of its duties, it is empowered to request information from Ministries and other government departments, local authorities, universities and other public institutions as well as private establishments, to conduct inquiries on their premises and to invite the representatives of these bodies to appear before it and provide information. If it deems necessary, the Commission may also refer to the knowledge of experts who it selects and may conduct its work outside Ankara. The Commission may conduct its activities through the establishment of sub-commissions.

72. The Commission submits an annual report as well as ad hoc reports it prepares concerning the discharge of its duties and issues within its mandate to the Presidency of the Turkish Grand National Assembly. Upon the agreement of the Consultative Council, these reports may be included in the agenda of the General Assembly to be discussed. The Commission's reports are also submitted to the Prime Ministry and the related ministries. If the Commission deems it necessary, the reports may be transmitted by the Presidency of the Turkish Grand National Assembly to the authority concerned with a request for the specific deficiencies

pointed to therein to be remedied. The Commission may also refer a specific case considered by it to the judiciary with a request for the initiation of the prosecution of officials who are alleged to be at fault.

73. The Commission can receive individual applications directly. There is no specific condition as to the filing of complaints. Any citizen may submit a petition to the Commission with regard to alleged infractions by official authorities in the area of human rights. All applicants are informed within three months at the latest of the results of the inquiries undertaken with respect to their applications.

74. Over 5,000 applications pertaining to various matters have been made to the Human Rights Inquiry Commission since 1 March 1991, when it became operational. These applications are highly useful for determining the issues where citizens' complaints are concentrated, as well as reflecting the areas of public administration which are in most urgent need of reform.

75. In addition to the above-mentioned parliamentary commission, a wide array of institutions with competence for human rights that are attached to the Government have been established in Turkey. In this respect, a Minister of State in each Government since 1991 has been entrusted with special responsibility for human rights.

76. The status of internal organizational structures within the Government concerning the protection of human rights has been further upgraded and strengthened by Law No. 4643, which was approved by Parliament on 12 April 2001 and entered into force on 21 April 2001. This law established the Human Rights High Council, which had previously functioned since 1997 as the Human Rights Coordinating High Committee. Human rights work within the Government is spearheaded by the High Council, chaired by the Minister of State responsible for human rights. The undersecretaries of the Prime Ministry and of the ministries of justice, interior, foreign affairs, national education, health and labour are members of the High Council. The High Council, with a view to increase its productivity, may invite high-level officials of other public institutions or representatives of non-governmental organizations which carry out activities in the field of human rights, as well as academicians who specialize in human rights, to participate in its meetings, which are held once a month.

77. The Human Rights High Council is entrusted with making recommendations to the relevant ministries and public institutions and proposing draft legislation in the context of the protection and promotion of human rights. The High Council also investigates allegations of human rights violations in Turkey, the results of which are made public periodically. The High Council may also receive individual complaints on human rights and forward them to the related authorities for action. The High Council, which has formed several sub-committees to maximize its efficiency, has to date taken a high number of legal and administrative decisions and has seen to the implementation of some of them, while setting a timetable for preparatory work on the remaining ones.

78. By Law No. 4643, a Human Rights Department affiliated to the office of the Prime Minister, which is entrusted with coordinating the work of various government agencies in the field of human rights, has also been created. The Human Rights Department functions as the

secretariat of the High Council. The staff of the department is composed of personnel appointed by the ministries represented in the High Council. The principal functions of the Human Rights Department are as follows:

(a) Coordination between human rights units of relevant public institutions;

(b) Ensuring compliance with provisions regarding the protection and promotion of human rights in relevant legislation;

(c) Coordination of work towards aligning Turkey's human rights legislation with international instruments to which Turkey is a party and making proposals to this effect;

(d) Coordination of in-service training in the field of human rights for members of relevant official bodies;

(e) Investigation of complaints and allegations regarding violations of human rights and coordination of measures to be taken for remedying them.

79. With the said law, a Human Rights Advisory Council has been set up within the Prime Ministry, which will serve as a link between government bodies and non-governmental organizations on human rights issues and provide advice to relevant institutions on domestic and international matters with respect to human rights. The Advisory Council will be composed of representatives of public institutions and non-governmental bodies; it will make recommendations and present reports on the protection and promotion of human rights.

80. Law No. 4643 also provides for the establishment of human rights inquiry delegations, composed of representatives of official and non-governmental bodies, which will investigate allegations regarding human rights violations locally and report their findings to the relevant authorities.

81. By a Government regulation dated 2 November 2000, Human Rights Councils have been established in all provinces and districts throughout Turkey. These councils, which have immediately begun to function, are entrusted with investigating complaints and allegations regarding human rights abuses, transmitting their findings to the relevant authorities and providing information to local communities about human rights. Representatives of local municipalities, universities, bar associations, medical chambers, trade and industry chambers, non-governmental organizations and media institutions as well as government officials are represented on the councils.

82. To further augment the domestic institutional framework regarding human rights protection, the draft law on the creation of the institution of public inspector, which will function as an ombudsman, has been presented to Parliament and is currently on the agenda of the Justice Commission. The mandate of this institution, which is intended to be consistent with universal norms and compatible with conditions prevalent in Turkey, will be to protect and uphold the rights of individuals against infractions by official bodies.

D. Status of international human rights instruments under Turkish law

83. Article 90 of the Turkish Constitution, entitled "Ratification of international treaties", states that "international agreements duly put into effect carry the force of law". Thus, agreements adopted by the Turkish Parliament by a law of ratification directly become a part of domestic legislation and their provisions have priority over other domestic laws, since the same article of the Constitution stipulates that, contrary to domestic laws, "no appeal to the Constitutional Court can be made with regard to these agreements, on the ground that they are unconstitutional". Thus, in accordance with article 90 of the Constitution, the provisions of international human rights treaties ratified by Turkey may be directly invoked before Turkish courts.

84. Turkey, a founding member of the United Nations, was one of the first countries to adopt the Universal Declaration of Human Rights, adopted on 10 December 1948 by the General Assembly of the United Nations, by Decree No. 9119 of the Council of Ministers, dated 6 April 1949. Turkey, which is also a founding member of the Council of Europe, ratified the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms by Law No. 6366, dated 10 March 1954.

85. On 28 January 1987, Turkey recognized the competence of the European Commission of Human Rights to receive petitions from any person, non-governmental organization or group of individuals. On 22 January 1990, Turkey made a declaration recognizing as compulsory ipso facto and without special agreement the jurisdiction of the European Court of Human Rights in all matters concerning the interpretation and the application of the European Convention on Human Rights which relate to the exercise of jurisdiction performed within the boundaries of the national territory of the Republic of Turkey. Turkey signed the Ninth Additional Protocol to the European Convention on Human Rights, which prescribes the right of individual petition to the European Court of Human Rights, on 6 November 1990.

86. Turkey ratified the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment by Law No. 3411, dated 25 February 1988, and became a party to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment following the enactment of Law No. 3441 by Parliament on 21 April 1988. Upon its ratification of the United Nations Convention, Turkey recognized, through a written declaration as foreseen in article 21/1, the competence of the Committee against Torture to receive and consider communications to the effect that it is not fulfilling its obligations under the Convention from States parties as foreseen in article 21/1 and from or on behalf of individuals subject to its jurisdiction as foreseen under article 22/1.

87. In addition to the above, Turkey has signed or ratified the following United Nations and Council of Europe instruments pertinent to the protection and promotion of human rights:

(a) United Nations instruments:

- The 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Law No. 5630, 29 March 1950);

- The 1951 Convention relating to the Status of Refugees (Law No. 359, 5 September 1961);

- The 1967 Protocol relating to the Status of Refugees (Council of Ministers Decree No. 6/10266, 1 July 1968);

- The 1952 Convention on the Political Rights of Women (Law No. 7288, 2 June 1959);

- The 1966 International Convention on the Elimination of All Forms of Racial Discrimination (signed on 13 October 1972);

- The 1966 International Covenant on Civil and Political Rights (signed on 15 August 2000);

- The 1966 International Covenant on Economic, Social and Cultural Rights (signed on 15 August 2000);

- The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (Law No. 3232, 25 June 1985);

- The 1999 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (signed on 8 September 2000);

- The 1989 Convention on the Rights of the Child (Law No. 4058, 11 December 1994);

- The 2000 Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (signed on 8 September 2000);

- The 2000 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (signed on 8 September 2000);

- The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (signed on 13 January 1999);

(b) Council of Europe instruments:

- The 1952 Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocol No. 11 (Law No. 6366, 10 March 1954);

- The 1963 Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the First Protocol thereto (signed on 19 October 1992);

- The 1984 Protocol No. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (signed on 14 March 1985);

- The 1994 Protocol No.11 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby (Law No. 4255, 14 May 1997);

- The 1957 European Agreement on Regulations Governing the Movement of Persons Between the Member States of the Council of Europe (instrument of ratification deposited on 25 May 1961);

- The 1961 European Agreement on Travel by Young People on Collective Passports Between the Member States of the Council of Europe (instrument of ratification deposited on 14 September 1962);

- The 1961 European Social Charter (Law No. 3581, 4 July 1989);

- The 1988 Additional Protocol to the European Social Charter (signed on 5 May 1988);

- Protocol No. 1 of 1993 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Law No. 4327, 4 April 1997);

- Protocol No. 2 of 1993 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Law No. 4327, 4 April 1997);

IV. INFORMATION AND PUBLICITY

88. In addition to legislative and administrative reforms in this regard, the Turkish authorities make intensive efforts to disseminate awareness of human rights through education. In line with this aim, compulsory courses on "Citizenship and human rights" have been included in curricula of primary schools. Moreover, optional courses entitled "Democracy and human rights" are being offered in high schools. New human rights centres in various universities have been established, in addition to existing ones. Courses on human rights have been introduced in preparatory programmes for civil service candidates.

89. To coordinate efforts and activities in the field of human rights education and information, the National Committee for the Decade of Human Rights Education was established by the Human Rights High Council in 1998 to function as an advisory body during the United Nations Decade for Human Rights Education. The Committee consists of 15 members,

including one representative each from the Prime Ministry and from the ministries of justice, interior affairs, foreign affairs, national education, health and culture, representatives of four non-governmental organizations active in the field of human rights, as well as four academicians known for their work in human rights. The Committee has prepared the Human Rights Education Programme of Turkey (1998-2007) by taking into consideration the relevant guidelines and principles set forth in the United Nations Action Plan on Human Rights Education. The National Programme was adopted by the High Council in July 1999 and forwarded by the Prime Ministry to all relevant authorities for implementation. The Programme envisages intensified human rights education, especially for civil servants employed in the field of law enforcement.

90. The National Committee is tasked with monitoring the implementation of the National Programme and cooperating with governmental and non-governmental organizations and the media to increase public awareness on human rights education. The National Committee has identified the following principal target groups in the context of the National Programme:

- Teachers who teach courses on human rights in schools;
- Law enforcement officers (judges, public prosecutors, penitentiary personnel, police, gendarmerie and other public officers);
- Members of the mass media;
- Members of non-governmental organizations which carry out activities related to human rights;
- Social workers and personnel at Community Centres who provide education in human rights for families living in economically and socially underprivileged sections of cities.

91. In line with the Human Rights Education Programme of Turkey, all official institutions directly concerned with human rights practices have intensified training programmes related to human rights which they are implementing as part of their respective in-service training curricula.

92. In this respect, training courses covering human rights have become mandatory for candidate judges and public prosecutors during their two-year probationary period at the Training Centre for Judges and Public Prosecutors. The Ministry of Justice has included human rights in the in-service training provided for judges and public prosecutors who enter the profession after they successfully complete their probationary period. Judges and public prosecutors are receiving human rights courses in cooperation with the Council of Europe and other international organizations. Also, bilateral programmes have been initiated with a number of countries with a view to the training of judges and prosecutors in the field of human rights.

93. In addition to the inclusion of human rights courses in training curricula, the Ministry of Justice is also organizing periodic in-service seminars for members of the judiciary at various levels, where participants are informed about Turkey's obligations under the relevant United Nations conventions, OSCE documents, the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the effects of these instruments in Turkish domestic law and rulings of the European Court of Human Rights with respect to Turkey. In the course of these seminars, judges and prosecutors are informed in particular about how the provisions of these instruments can be raised by defendants and included ipso facto in court decisions as they have become part of Turkish domestic legislation.

94. Human rights education is also being provided to prison superintendents, as well as physicians, psychologists, social workers and teachers employed in penal institutions. Prison guards and security officers of penal institutions also receive candidate training for a period of one year covering professional subjects and human rights in accordance with the provisions of the Regulation on Training for Candidate Civil Servants Attached to the Ministry of Justice before their permanent appointment. Further, the human rights education of prison staff is being supplemented through the distribution of books, handbooks and other relevant documentation prepared by experts and academicians to all penitentiary institutions.

95. The intensification of the education of members of law enforcement agencies is considered to be a particularly useful means for promoting the implementation of human rights. In this framework, courses on human rights have become mandatory in the curricula of the Police Academy and Police Colleges since 1991. Textbooks which are used in these courses incorporate the letter and spirit of the relevant United Nations and Council of Europe conventions as well as other international instruments. Law No. 4652 on the Higher Education of Police, which was prepared in line with the recommendations of the National Committee, was adopted by Parliament on 25 April 2001 and came into effect on 9 May 2001. With this law, the 26 police schools all over Turkey, which formerly trained police officers for nine months, have been converted into two-year vocational schools with an expanded emphasis on human rights education.

96. In the period covered by this report, a number of periodic seminars, conferences and workshops have been held as part of the human rights training work being carried out for staff of the Ministry of Interior at various levels. These seminars cover topics such as human rights provisions in Turkish domestic law, the duties and responsibilities of senior administrators and law enforcement officers with regard to human rights under the international conventions to which Turkey is a party as well as under domestic legislation, Turkey's human rights obligations under the United Nations, Council of Europe and OSCE conventions and documents, the powers, working methods and procedures of the United Nations Committee against Torture and the European Committee for the Prevention of Torture and rulings of the European Court of Human Rights.

97. The said seminars are mainly intended for senior administrators (province and district governors) and senior police and gendarmerie officers, who are jointly responsible for security

and law and order in the provinces and districts, and are in practice required to coordinate the operation of these services. However, it is ensured in practice that activities of this type benefit not only senior staff, but also personnel working in units whose duties bring them into direct contact with the public. Accordingly, within the framework of the Project for the Human Rights Education of the Ministry of Interior and Its Affiliated Institutions, which was prepared in collaboration with the National Committee, the Ministry of Interior is planning to systematically provide professional training directly related to human rights to the heads and lower ranking personnel of the provincial security directorates' law and order, mobile squads, security, traffic and trafficking/organized crime departments and to continue until all personnel has received awareness training.

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